



## Senate

General Assembly

**File No. 133**

February Session, 2004

Substitute Senate Bill No. 157

*Senate, March 18, 2004*

The Committee on Banks reported through SEN. FINCH of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING MORTGAGE RATE LOCK-INS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-705 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section and sections 36a-706, as amended by this act,  
4 [and] 36a-707 and section 3 of this act, unless the context otherwise  
5 requires:

6 (1) "First mortgage loan" means [any loan made to an individual, the  
7 proceeds of which are to be used primarily for personal, family or  
8 household purposes, which loan is secured by a mortgage upon any  
9 interest in one-to-four-family residential, owner-occupied real  
10 property located in this state which is not subject to any prior  
11 mortgages. The term includes the renewal or refinancing of an existing  
12 first mortgage loan] "first mortgage loan", as defined in section 36a-  
13 485;

14       (2) "Mortgage broker" means "first mortgage broker", as defined in  
15       section 36a-485, who is licensed or required to be licensed under  
16       sections 36a-485 to 36a-498a, inclusive;

17       [(2)] (3) "Mortgage lender" means [any person engaged in the  
18       business of making first mortgage loans, including, but not limited to,  
19       banks, out-of-state banks, Connecticut credit unions, federal credit  
20       unions, out-of-state credit unions and first mortgage lenders required  
21       to be licensed under sections 36a-485 to 36a-498, inclusive] "mortgage  
22       lender", as defined in section 36a-485, who is required to be licensed  
23       under section 36a-485 to 36a-498a, inclusive, except that the term shall  
24       include a bank, out-of-state bank, Connecticut credit union, federal  
25       credit union and out-of-state credit union; and

26       [(3)] (4) "Mortgage rate lock-in" means [any] a written [agreement  
27       with] or electronically transmitted confirmation issued to a mortgage  
28       applicant [made] or the representative of such applicant by a mortgage  
29       lender or [its] the lender's representative, prior to the issuance of a first  
30       mortgage loan commitment, [in which the mortgage lender agrees]  
31       stating that a particular rate, number of points or variable rate terms  
32       will be the rate, number of points, or variable rate terms at which [it]  
33       the lender will [lend] make the loan, provided the first mortgage loan  
34       is closed [within] by a specified [period] date, and the applicant  
35       qualifies for the loan in accordance with the lender's standards of  
36       [credit worthiness] creditworthiness.

37       Sec. 2. Section 36a-706 of the general statutes is repealed and the  
38       following is substituted in lieu thereof (*Effective from passage*):

39       (a) (1) No mortgage lender shall [enter into a mortgage rate lock-in  
40       agreement unless such agreement is in writing] commit to a first  
41       mortgage loan applicant or the applicant's representative that the  
42       lender will make the loan at a specified rate if the loan is closed by the  
43       expiration of a specified period of time except by issuing a mortgage  
44       rate lock-in, and the period for which the terms are locked in is at least  
45       as long as the mortgage lender's good faith estimate of the anticipated  
46       time from when the mortgage loan application is submitted to the

47 lender to the time when such lender will be ready to close such loan,  
48 taking into consideration current market conditions and the processing  
49 requirements for the type of first mortgage loan in question. (2) In the  
50 event a mortgage rate lock-in [agreement is executed] is issued after  
51 the mortgage loan application is submitted to the lender, the minimum  
52 period for which the terms may be locked in shall be the period  
53 determined in accordance with subdivision (1) of this subsection, less  
54 the number of days elapsed since the application was submitted to the  
55 lender.

56 (b) Any first mortgage loan application for which a mortgage rate  
57 lock-in [agreement] has been issued shall, unless it is denied in  
58 accordance with the mortgage lender's standards of [credit worthiness]  
59 creditworthiness, be closed at the terms specified in the mortgage rate  
60 lock-in [agreement] regardless of whether the specified lock-in [period]  
61 date has expired, unless the failure to close the first mortgage loan is  
62 the result of the following: (1) The applicant has failed to provide  
63 information or documentation required by the lender in a timely  
64 manner; (2) the applicant or the applicant's attorney has failed to close  
65 the first mortgage loan on or before the date specified by the mortgage  
66 lender; (3) the applicant has failed to produce, at or before the closing,  
67 all of the documentation specified by the mortgage loan commitment  
68 as being required for closing; or (4) the applicant has provided or  
69 omitted any information, in the application or subsequently, which  
70 upon verification proves to be significantly inaccurate causing the  
71 need for review or further investigation by the lender. Information is  
72 significantly inaccurate if the information as verified would cause the  
73 applicant to be disqualified for the type of first mortgage loan for  
74 which the applicant has applied or would cause the secondary market  
75 source for which the first mortgage loan is being originated to refuse to  
76 purchase the loan.

77 (c) In any case where a first mortgage loan has not been closed, and  
78 the application has not been rejected in accordance with the mortgage  
79 lender's standards of [credit worthiness] creditworthiness, ninety days  
80 after the filing of an application for a first mortgage loan with an initial

81 loan to value ratio of eighty per cent or less or one hundred twenty  
82 days after filing an application for a first mortgage loan with an initial  
83 loan to value ratio of more than eighty per cent, or a first mortgage  
84 loan to be insured or guaranteed by any agency of the federal  
85 government, or any state or municipal government, or any quasi-  
86 governmental agency, whether or not there has been a mortgage rate  
87 lock-in, the applicant shall be entitled upon written request, which  
88 [must] shall be made [within] not later than thirty days [of] after the  
89 expiration of the ninety or one hundred twenty day period, as  
90 applicable, to a full refund of all funds paid to the mortgage lender  
91 unless the failure to close was caused by the applicant for one of the  
92 reasons set forth in subdivisions (1) to (4), inclusive, of subsection (b)  
93 of this section or the applicant has requested a closing date which is  
94 later than ninety days after application for a first mortgage loan with  
95 an initial loan to value ratio of eighty per cent or less or one hundred  
96 twenty days for a first mortgage loan with an initial loan to value ratio  
97 of more than eighty per cent or which is to be insured or guaranteed  
98 by any agency of the federal government, or any state or municipal  
99 government, or any quasi-governmental agency.

100 (d) For the purposes of subsections (b) and (c) of this section:

101 (1) An applicant shall be deemed to have provided information or  
102 documentation in a timely manner if such information or  
103 documentation is delivered to the mortgage lender or a representative  
104 [thereof within] of the mortgage lender not later than seven calendar  
105 days after it is requested.

106 (2) If a written first mortgage loan commitment issued by a  
107 mortgage lender contains any conditions to be satisfied by the  
108 applicant, the mortgage lender shall specify a closing date no sooner  
109 than seven calendar days after the issuance of [a written] such  
110 commitment unless an earlier date is requested by the applicant.

111 (3) Any new information or documentation requested by the  
112 mortgage lender within seven calendar days before the expiration of  
113 any rate lock-in period shall serve to extend the rate lock-in period by

114 seven calendar days from the date of such request. Information or  
115 documentation is not new if the request is made necessary by  
116 inaccuracies in or omissions from previously provided information, by  
117 changes in the information previously provided by the applicant, or  
118 questions raised as the result of appraisals, pest inspections, water or  
119 sewer tests, engineering reports or reports of a similar nature.

120 (4) If an applicant chooses to change the type or amount of a first  
121 mortgage loan for which application is made, or does not qualify for a  
122 particular type or amount of first mortgage loan and chooses to apply  
123 for another, any mortgage rate lock-in [agreement] shall be void and  
124 any subsequent rate lock-in shall be evidenced by a new [written  
125 agreement] mortgage rate lock-in and the application shall be  
126 considered a new application for the purposes of sections 36a-705 to  
127 36a-707, inclusive, as amended by this act. [, be considered a new  
128 application.]

129 (5) A mortgage rate lock-in [agreement] shall not be binding on the  
130 mortgage lender in connection with the application for any first  
131 mortgage loan which is to be insured or guaranteed by any agency of  
132 the federal government or any state or municipal government or quasi-  
133 governmental agency in the event the loan program for which the  
134 applicant has applied becomes unavailable subsequent to filing an  
135 application because of actions taken by that governmental agency. In  
136 such cases the applicant shall be entitled to a refund of all funds paid  
137 by the applicant which have not actually been expended by the  
138 mortgage lender.

139 (6) If the mortgage lender requires that the closing of the first  
140 mortgage loan be conducted by a particular attorney or law firm, and  
141 that attorney or law firm is not available to conduct the closing before  
142 a first mortgage loan commitment period or rate lock-in period  
143 expires, the mortgage lender shall extend the first mortgage loan  
144 commitment or rate lock-in period until the designated attorney is  
145 available to conduct the closing.

146 Sec. 3. (NEW) (*Effective from passage*) No mortgage broker shall

147 collect a rate lock-in fee, except where required by a governmental  
148 agency to be collected directly by the mortgage broker, issue a  
149 mortgage rate lock-in or otherwise represent to a first mortgage loan  
150 applicant or the applicant's representative that the loan will be made at  
151 a specified rate if the loan is closed by the expiration of a specified  
152 period of time. Notwithstanding the provisions of this section, a  
153 mortgage broker may provide a mortgage lender's mortgage rate lock-  
154 in to a mortgage loan applicant or the applicant's representative on  
155 behalf of such mortgage lender and collect a rate lock-in fee on the  
156 mortgage lender's behalf payable to the mortgage lender.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>

**BA**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Banking Dept.	BF - None	None	None

Note: BF=Banking Fund

**Municipal Impact:** None

**Explanation**

The bill makes various changes to the mortgage rate lock-in statutes, none of which have a fiscal impact.

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**OLR Bill Analysis**

sSB 157

***AN ACT CONCERNING MORTGAGE RATE LOCK-INS*****SUMMARY:**

For purposes of the mortgage rate lock-in statutes, this bill includes first mortgage correspondent lenders in the definition of a mortgage lender and includes lines of credit in the definition of a loan. The bill also explicitly allows a mortgage rate lock-in to include electronically transmitted confirmations stating mortgage rates and allows the applicant's representative, in addition to the applicant himself, to receive such a confirmation.

Current law prohibits mortgage lenders from entering into a mortgage rate lock-in agreement unless the agreement is in writing. The bill instead prohibits a lender from committing to a first mortgage loan applicant or his representative that the lender will make a loan at a specified rate if the loan is closed by the expiration of a specified period of time except by issuing a mortgage rate lock-in. It eliminates the requirement that the lock-in be in writing.

The bill prohibits a mortgage broker from (1) collecting a rate lock-in fee, except where a governmental agency requires it to collect the fee directly; (2) issuing a mortgage rate lock-in; or (3) otherwise representing to a first mortgage loan applicant or his representative that the loan will be made at a specified rate if it is closed by a certain time. But it specifies that a mortgage broker may provide a mortgage lender's mortgage rate lock-in to an applicant or his representative on the lender's behalf and collect a rate lock-in fee, payable to the lender, on the lender's behalf.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****First Mortgage Correspondent Lenders***

A first mortgage correspondent lender is a person who makes first



mortgage loans in his own name and holds them for less than 90 days, and another person funds the loans through a warehouse, table funding, or other similar agreement.

***First Mortgage Broker***

A first mortgage broker is a person who, for a fee, commission, or other valuable consideration, directly or indirectly negotiates, solicits, arranges, places, or finds a first mortgage loan that a mortgage lender will make.

**COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 17      Nay 0